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(règle 72.2 du PCT)

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Référence du dossier du déposant ou du mandataire
19979PC LAF

Demande internationale n°
PCT/FR2003/003333

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Déposant
LAFARGE PLATRES etc

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Translation

PATENT COOPERATION TREATY

PCT/FR2003/003333



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 19979PC LAF	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International application No. PCT/FR2003/003333	International filing date (day/month/year) 07 novembre 2003 (07.11.2003)	Priority date (day/month/year) 08 novembre 2002 (08.11.2002)
International Patent Classification (IPC) or national classification and IPC C04B 28/14, C04B 28/14, 14/18, 24/08, 14/18, 24/26, 14/18, 24/26		
Applicant LAFARGE PLATRES		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 04 juin 2004 (04.06.2004)	Date of completion of this report 05 July 2005 (05.07.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

I. Basis of the report

1. With regard to the elements of the international application:^{*}

- the international application as originally filed
- the description:

pages _____ 1-12 _____, as originally filed
 pages _____ , filed with the demand
 pages _____ , filed with the letter of _____

- the claims:

pages _____ 1-13 _____, as originally filed
 pages _____ , as amended (together with any statement under Article 19
 pages _____ , filed with the demand
 pages _____ , filed with the letter of _____

- the drawings:

pages _____ , as originally filed
 pages _____ , filed with the demand
 pages _____ , filed with the letter of _____

- the sequence listing part of the description:

pages _____ , as originally filed
 pages _____ , filed with the demand
 pages _____ , filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages _____
 the claims, Nos. _____
 the drawings, sheets/fig. _____

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/FR 03/03333

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-13	YES
	Claims		NO
Inventive step (IS)	Claims	1-13	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

2. Citations and explanations

1. Reference is made to the following documents:

D1: FR-A-2 818 635 (WACKER POLYMER SYSTEMS GMBH) 28
June 2002 (2002-06-28).

D2: GB-A-2 228 931 (POLYCELLS PRODUCTS LIMITED) 12
September 1990 (1990-09-12)

Document D3 has not been cited in the international search report. A copy of said document is attached.

D3: WO-A-0206183 (LAFARGES PLATRES) 24 January 2002
(2002-01-24)

2. Novelty

2.1 The present application meets the requirements of PCT Article 33(1), since the subject matter of claims 1-10 complies with the criterion of novelty as defined by PCT Article 33(2).

2.2 Document D1, which is considered the prior art closest to the subject matter of claim 1, describes (the references between parentheses apply to said

document): a plaster composition (10-90% by weight of a hemihydrate) used, *inter alia*, as a sealant paste and as a joint filler (page 7, lines 7-17). Said composition further comprises lower fatty acid salts, in combination with dispersion powders (4-40%, preferably 6-15% by weight) to improve the adhesion thereof to substrates (page 1, lines 34 - page 2, line 4; page 5, line 31 - page 6, line 9). It also includes long-chain fatty acid salts such as Ca stearate or Na oleate, the percentage of which in the composition is not given.

Example 11 (see table II, page 11) describes as composition having a total of 980 parts by weights, which includes 500 parts by weight of plaster (51%) and 60 parts by weight of a dispersion powder (6.1%).

The subject matter of claim 1 differs from the composition known from D1 by virtue of the percentage of the water-repellent agent. The amount of water-repellent agent used in claim 1 is 0.05 to 0.2%, which is considerably lower than those known in the prior art (see, e.g., D3, where 0.2-5% of a water-repellent agent is used). This specific amount could therefore not be directly and unambiguously derived from the prior art documents.

3. Inventive step

- 3.1 Document D1 is considered the prior art closest to the subject matter of claim 1, as already specified in paragraph 2 above. Consequently, the subject matter of claim 1 differs from the composition known from D1 by virtue of the percentage of the water

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repellent agent used.

The problem that the present invention is intended to solve can therefore be considered to be that of providing a hemihydrate plaster composition for a jointing coating with good workability, low shrinkage, good adhesion to paper sidings and water-repellent properties. The solution to said problem, as proposed in claim 1 of the present application, is considered to involve an inventive step (PCT Article 33(3)) for the following reasons:

a person skilled in the art, aware of the composition of D1 and seeking to define the amount of Ca stearate to be used, would not have taken into account the teachings of D3, which describes coatings containing higher semihydrate amounts than those described in the present application, as well as silicon derivatives (0.2-5% by weight) used as water-repellent agent.

3.2 Claims 2-10 are dependent on claim 1 and therefore also meet, as such, the PCT requirements of novelty and inventive step.

4. Other independent claims.

4.1 The same arguments apply, mutatis mutandis, to the subject matter of the corresponding claims 11 and 12, which is novel and involves an inventive step under PCT Article 33(2) and (3).

4.2 The subject matter of claim 13 is also novel and inventive, since the joint obtained by the method of claim 11 includes technical features that correspond

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to the features of the novel and inventive composition as per the first claim.

5. Certain defects and observations with regard to the international application

- 5.1 Contrary to the requirements of PCT Rule 5.1(a) (ii), the description does not outline the relevant prior art set forth in documents D1-D3 and does not cite these documents.
- 5.2 Claims 1-3 describe a composition in terms of percentages of the ingredients thereof. However, they do not mention whether said percentages are by weight or some other unit, which casts a doubt on the meaning of said values. Therefore, the subject matter of said claims is not clearly defined (PCT Article 6).